



**DEPARTMENT OF THE TREASURY**

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street  
Dallas, TX 75424

501.03-00

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

June 24, 2010

Number: **201040033**

Release Date: 10/8/2010

**LEGEND**

ORG = Organization name

XX = Date Address = address

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

EIN:

ORG

ADDRESS

**CERTIFIED MAIL – Return Receipt Requested**

Dear :

This is a final revocation letter as to your exempt status under section 501(c) (3) of the Internal Revenue Code. The Internal Revenue Service's recognition of your organization as an organization described in section 501(c) (3) is hereby revoked effective January 1, 20XX.

We have made this determination for the following reasons:

You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c) (3). Organizations described in I.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for an exempt purposes. You have provided no information regarding your receipts, expenditures or activities. You have not established that you have operated exclusively for an exempt purpose.

As such, you failed to meet the requirements of I.R.C. section 501(c)(3) and Treas. Reg. section 1.501(c)(3)-1(d) in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending June 30, 20XX, and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers.

You can call and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling, or write:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Nanette M. Downing  
Director, EO Examinations



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
TE/GE EO Examinations  
Examiner's Address  
Examiner's Address

**Date: January 21, 2010**

ORG  
ADDRESS

**Form Number:**  
**Tax Year Ended:**  
**Taxpayer Identification Number:**  
**Person to Contact:**  
**Employee Identification Number:**  
**Employee Telephone Number:**  
(Phone)  
(Fax)

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Action - Section 7428*. If you have already given us a signed Form 6018, you need not repeat this process. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

in lieu of Letter 3618

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing  
Acting Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

in lieu of Letter 3618

|                  |  |                            |
|------------------|--|----------------------------|
| Form <b>886A</b> | Department of the Treasury - Internal Revenue Service<br><b>Explanation of Items</b> | Schedule No. or<br>Exhibit |
| Name of Taxpayer |  | Year/Period Ended          |
| ORG<br><br>EIN   |  | December 31,<br>20XX       |

**LEGEND**

ORG = Organization name      XX = Date      State = state      President = president

**PRIMARY ISSUES:**

1. Is ORG organized and operated exclusively for tax exempt purposes as described under section 501(c)(3) of the Code?
2. Should the tax exempt status of the ORG be revoked based on its lack of charitable operations/activities?

**FACTS:**

ORG ("The Organization") was incorporated in the State of State on February, 20, 20XX.

Founder of the organization, President, assumed the title of president.

The Organization received exemption from taxation under section 501(c)(3) of the Code in July, 20XX. The Organization was to be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competitions, or for the prevention of cruelty to children or animals.

The Organization submitted a Form 990 for the tax year ended December 31, 20XX and checked the box indicating that this was the final return for the Organization. The Form 990 contained zeros on every line, indicating there was no income, no expense, no assets or activities conducted by for the Organization.

The Organization did not file Form 990 for any years subsequent to the year ended December 31, 20XX.

Information obtained from the State Secretary of State web site shows that the Organization dissolved on December 10, 20XX.

Information obtained from the Social Security Administration reflects nine Forms W-2 were filed for the tax year ended December 31, 20XX. The total wages reflected on those nine Forms W-2 and on the Form W-3 was \$.

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A drafted examination letter was mailed to the Organization on July 3, 20XX. Included as attachments was Form 4564, *Information Document Request*, and Publication 1, *Your Rights as a Taxpayer*. The purpose of this information request was to determine if the Organization failed to file the required Forms 941 and if they were still operating as a charitable organization.

The Organization failed to respond to the July 3, 20XX letter and information request and a second letter and request for information was mailed via certified mail on August 18, 20XX. The Organization failed to respond and the August 18, 20XX letter was returned by the United States Postal Service as being undeliverable.

On March 30, 20XX a third letter and information request was sent via certified mail to the last known address of President, president of the Organization. President signed for the letter but failed to respond. This third letter specifically addressed the need to provide documentation on the termination and dissolution of the Organization.

On May 29, 20XX the Organization was mailed a fourth letter via certified mail indicating that the Organization owed \$ in unpaid employment taxes as well as \$ in related employment tax penalties. Included with this letter were forms outlining the government's position as well as Form 2504, *Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment*. President signed for the certified letter and signed the Form 2504 and returned the Form 2504 to this office. President did not submit delinquent Forms 941 and did not include payment with the Form 2504. President also did not submit any documentation with regard to the termination and dissolution of the organization.

In addition to the May 29, 20XX letter addressing the employment tax deficiency, the Organization was sent a second letter on May 29, 20XX via certified mail addressing the need to file a delinquent Form 990 for the year ended December 31, 20XX. President signed for that letter, but again, failed to provide a response.

In addition to the five letters mailed to the Organization, telephone contact was attempted several times between July, 20XX and June, 20XX with no success.

#### **LAW:**

**Section 501(c)(3)** of the Code exempts from federal income tax organizations organized and operated exclusively for charitable, educational, and other exempt purposes, provided that no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

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**Section 6003** of the Code provides that "every organization exempt from taxation under Section 501(a) shall file an annual return" unless it meets at least one of several exceptions.

**Section 6033(a)(3) – Exceptions from filing:**

**6033(a)(3)(A) Mandatory Exceptions –**

**6033(a)(3)(A)(i)** - churches, their integrated auxiliaries, and conventions or associations of churches,

**6033(a)(3)(A)(ii)** – any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than \$5,000, or

**6033(a)(3)(A)(iii)** – the exclusively religious activities of any religious order.

**6033(a)(3)(C) – Certain Organizations.** The organizations referred to subparagraph (A)(ii) are;

**6033(a)(3)(C)(i)** - a religious organization described in section 501(c)(3);

**6033(a)(3)(C)(ii)** – an educational organization described in section 170(b)(1)(A)(ii)

**6033(a)(3)(C)(iii)** a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

**6033(a)(3)(C)(iv)** an organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

**Section 1.501(c)(3)-1(a)(1)** of the regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more purposes specified in that section. If an organization fails to meet either the organizational or operational test, it is not exempt.

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| ORG<br><br>EIN   |  | December 31,<br>20XX       |

**Section 1.501(c)(3)-1(c)** of the regulations specifies that with regard to the primary activities within the operational test, an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

**Section 1.501(c)(3)-1(c)(1)** of the regulations provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

**Section 1.501(c)(3)-1(d)(1)(ii)** of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

**Section 1.6001-1(c)** of the regulations requires that an exempt organization must maintain records sufficient to demonstrate that it is entitled to tax exempt status.

**Section 1.6033-2(h)(2)** of the regulations holds that an organization which is exempt from tax, whether or nor it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue service for the purpose of inquiring into its exempt status.

In **Bubbling Well Church of Universal Love, Inc v. Commissioner**, the tax court held that "where the creators control the affairs of the organization, there is an obvious opportunity for abuse, which necessitates an open and candid disclosure of all facts bearing upon the organization, operations, and finances so that the Court can be assured that by granting the claimed exemption it is not sanctioning the abuse of the revenue laws." Implicit in this determination is that the taxpayer has a responsibility to show through its "candid disclosure" of its activities and operations that it continues to qualify for exemption. The "Bubbling Well" opinion goes on to say that if such disclosure is not forthcoming, the logical inference is that the facts, if disclosed, would show that the organization fails to meet the requirements of 501(c)(3).

**Revenue Ruling 72-369** states, in part, that in order for an organization to pass the operational test the organization's resources must be devoted to purposes that qualify as exclusively charitable.

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### **GOVERNMENT'S POSITION:**

The IRS section 501(c)(3) tax exempt status of ORG should be revoked, effective January 1, 20XX, because it is not operated exclusively for tax exempt purposes pursuant to the requirements set forth in section 1.501(c)(3)-1(c)(1) of the regulations.

The Organization filed Articles of Dissolution with the State of State on December 10, 20XX. The Organization's lack of activities for over two years and the apparent desire to terminate their operations also stands in contrast to section 1.501(c)(3)-1(c)(1) of the regulations in that the lack of operations is evidence that there is no furtherance of any exempt purpose.

The Organization has failed repeatedly to respond to the Service's requests for information in contrast to section 1.6033-2(h)(2) of the regulations which requires an organization to provide such information as requested to allow the Service to make a determination of that organization's exempt status.

The Organization does not pass the operational test as specified in section 1.501(c)(3)-1(c) of the regulations because the lack of activities is evidence that they were not operated exclusively for one or more exempt purposes. To be considered as operating exclusively for exempt purposes the Organization would have had to engage primarily in activities which accomplish one or more of such exempt purposes as specified in section 501(c)(3) of the Code.

In addition to the lack of any charitable activity is the lack of any qualified activity at all. The Organization has not provided evidence of conducting meetings or events, creating and/or issuing reports, creation or distribution of publications, or conducting any other activity in furtherance of its exempt purpose. The Organization has failed to disclose the distribution of assets upon dissolution and the lack of responsiveness is indicative of an organization that has ceased operations.

Subsequent to December 31, 20XX, the Organization has not filed an annual return. The Organization does not meet any of the exceptions as described in section 6033 of the Code.

### **TAXPAYER'S POSITION:**

The Organization has not responded to telephone calls or certified mail. The Organization has not provided a position.

### **CONCLUSION:**

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| <b>Name of Taxpayer</b><br><br>ORG<br><br>EIN |  | <b>Year/Period Ended</b><br><br>December 31,<br>20XX |

ORG does not qualify for tax exempt status under Internal Revenue Code section 501(a) as described in section 501(c)(3) of the Code. The lack of any meaningful response to requests for information combined with the filing of Articles of Dissolution demonstrates that the Organization has not met its obligations and responsibilities, and does not desire to maintain tax exempt status under section 501(c)(3) of the Code. Revocation of the tax exempt status of ORG is proposed with an effective date of January 1, 20XX.

A closing conference was not held since the Organization has repeatedly failed to respond to requests for information and attempts at communication.